

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

DATA SPEED TECHNOLOGY LLC,

Plaintiff,

v.

VMWARE, INC.,

Defendant.

C.A. No. 13-1451-SLR

JURY TRIAL DEMANDED

**PLAINTIFF DATA SPEED TECHNOLOGY LLC'S ANSWER TO
DEFENDANT VMWARE, INC.'S COUNTERCLAIMS**

Plaintiff Data Speed Technology LLC (“Data Speed Tech”), by and through its undersigned attorneys, answers the Counterclaims of Defendant VMware, Inc.’s (“VMware”) (D.I. 10) by corresponding paragraph number as follows:

COUNTERCLAIMS

1. Data Speed Tech admits VMware has pled counterclaims. Denied that VMware is entitled to relief.
2. Admitted
3. Data Speed Tech admits that it has consented to the personal jurisdiction of this Court. Data Speed Tech denies the merits of VMware’s Counterclaims and denies that VMware is entitled to such relief.
4. Admitted that Data Speed Tech alleges that venue is proper in this judicial district. Denied that it is proper for VMware to bring a counterclaim in this district and simultaneously contest venue.

5. Data Speed Tech admits that a controversial exists between Data Speed Tech and VMware. Denied that U.S. Patent No. 5,867,686 (the “‘686 patent”) is unenforceable or invalid.

**FIRST CLAIM FOR RELIEF
(Declaratory Judgment of Non-Infringement)**

6. Data Speed Tech incorporates its response to paragraphs 1–5 of VMware’s Counterclaims as if set forth herein. Admitted that Data Speed Tech has asserted infringement of the ‘686 patent. Denied that VMware does not infringe the ‘686 patent.

**SECOND CLAIM FOR RELIEF
(Declaratory Judgment of Invalidity Validity)**

7. Data Speed Tech incorporates its response to paragraphs 1–6 of VMware’s Counterclaims as if set forth herein. Admitted that Data Speed Tech has asserted infringement of the ‘686 patent. Denied that the ‘686 patent is invalid.

PRAYER FOR RELIEF

WHEREFORE, Data Speed Tech prays for the following relief with regard to VMware’s Counterclaims:

- A. A dismissal with prejudice of VMware’s Counterclaims;
- B. An adjudication that VMware is not entitled to any relief on its Counterclaims, including, without limitation, any fine or damages; and
- C. Costs and further relief to which Data Speed Tech is entitled, and which the Court deems just and equitable.

DEMAND FOR JURY TRIAL

Data Speed Tech demands a trial by jury on all issues so triable.

Dated: November 4, 2013

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